

A B I L L

To amend title 10, United States Code, with respect to annuities based on retired or retainer pay.

1     Be it enacted by the Senate and House of Representatives of the

2     United States of America in Congress assembled, That chapter 73 of

3     title 10, United States Code, is amended as follows:

4         (1) By adding the following new section at the end thereof:

5         "1447. Tax treatment of amounts paid to servicemen and survivors

6         "(a) For taxable years beginning after December 31, 1965, the  
7     election under this chapter to receive a reduced amount of retired or  
8     retainer pay shall be treated under title 26 as the election to receive  
9     one or more joint and survivor annuities under an annuity plan which is  
10    described in section 403(a) of title 26. For purposes of the preceding  
11    sentence, the joint and survivor annuity shall consist of the reduced  
12    amount of retirement pay (as defined in subsection (b) (2)) and the  
13    annuity (or annuities) provided for the survivor or survivors. For  
14    taxable years beginning before January 1, 1966, a serviceman who has  
15    elected under this chapter to receive a reduced amount of retired or  
16    retainer pay shall be treated under title 26 as receiving, at the time  
17    of the payment of any such amount, the total amount of retirement pay  
18    (as defined in subsection (b) (1)) for the period with respect to which  
19    such payment is made.

20         "(b) (1) For purposes of this section, the 'total amount of  
21    retirement pay' means the total amount of retired or retainer pay with  
22    respect to which the reduction described in section 1436 of this title  
23    is computed.

1       "(2) For purposes of this section, the 'reduced amount of retire-  
2   ment pay' means the total amount of retirement pay within the meaning  
3   of paragraph (1) minus the reduction in such pay computed under section  
4   1436 of this title.

5       "(c) In the case of any joint and survivor annuity contract  
6   described in subsection (a), for purposes of applying the provisions of  
7   section 72 of title 26 for any taxable year beginning after December  
8   31, 1965--

9               "(1) the annuity starting date of such annuity contract  
10   is the first day of the first period for which an amount is  
11   received as an annuity under the contract, except that if  
12   such date is before January 1, 1966, then the annuity starting  
13   date is January 1, 1966;

14              "(2) the amount received as an annuity is determined by  
15   the provisions of section 72 (d) without regard to whether  
16   the requirements of section 72 (d) (1) (B) are satisfied; and

17              "(3) for purposes of section 72 (d) (1), the consideration  
18   paid for the contract by the employee prior to January 1, 1966,  
19   is an amount equal to--

20                    "(A) the total amount of retirement pay minus

21                    "(B) the sum of (i) the reduced amount of  
22                    retirement pay and (ii) the aggregate amount (if any)  
23                    previously excluded from gross income under section 72  
24                    (b) of title 26.

1       "(d) Notwithstanding any other provision of this section, for  
2 taxable years beginning after December 31, 1965--

3               "(1) if an individual deposits amounts described in  
4 section 1438 of this title, an amount equal to the amounts  
5 so deposited shall be excluded from his gross income under  
6 title 26 for his taxable year in which such deposit is made,  
7 but no such amount shall be treated, for purposes of section  
8 72 (d) (1) of title 26 as consideration paid by the employee  
9 for the contract; and

10              "(2) if an individual receives a refund described in  
11 section 1439 of this title, the amount so received which is  
12 otherwise includible in such individual's gross income under  
13 title 26 for the taxable year shall be reduced by an amount  
14 equal to the aggregate of the amounts which would have been  
15 excluded from the gross income of such individual under title  
16 26 for any prior taxable year to which such refund relates if  
17 such individual had received, during such year, his total amount  
18 of retirement pay.

19              "(e) In the case of decedents dying after August 16, 1954,  
20 the joint and survivor annuity described in subsection (a) shall,  
21 for purposes of section 2039 (c) of title 26, be considered to be  
22 provided under a plan which at all times was a plan described in  
23 section 403 (a) under which all payments or contributions were  
24 considered to be made by the employer of the decedent."

1           (2) By adding the following new item at the end of the  
2 analysis:

3           "1447. Tax treatment of amounts paid to servicemen and  
4 survivors."

5           Sec. 2. If refund or credit of any overpayment of Federal estate  
6 tax resulting from the application of section 1447 (e) of title 10,  
7 United States Code, is prevented on the date of enactment of this Act,  
8 or within twelve months after such date, by the operation of any law  
9 or rule of law (other than chapter 74 of title 26, relating to closing  
10 agreements or compromises, and the corresponding provisions of prior  
11 law), refund or credit of such overpayment may, nevertheless, be made  
12 or allowed if claim therefor is filed within twelve months after such  
13 date. No interest shall be paid or allowed on any overpayment resulting  
14 from the application of the preceding sentence.